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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. 103.1.6/USA

In re Application of:)
)
Carl K. Towley, III)
)
Serial No. 10/705,682)
)
Filed 11/10/2003) Group Art Unit 3644
)
For PARACHUTE SUPPORTED) Examiner Stephen Holzen
AIRCRAFT WITH CONTROLLED)
WING COLLAPSE AND)
INFLATION)

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

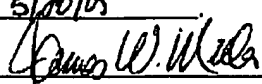
In response to the Office Action of May 4, 2005, I hereby elect Group I, namely claims 1-27 and 40-42 for prosecution. In addition, I hereby elect the species of the invention set forth in paragraph 6a, namely a gathering device that is a sleeve having a flared or trumpeted shape. These elections are made without traverse.

The claims readable on the elected invention and species are claims 1-27, 40 and 41.

In a recent phone conversation with Examiner Holzen, I asked why an election of species requirement had been made

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James W. Miller

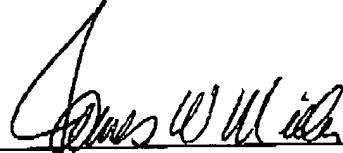
when all the claims directed to such species, namely claims 40-42, depended from allowed claim 3. The Examiner seemed to indicate that he was reconsidering the allowability of claim 3 in view of the broad construction being urged for the word "sleeve".

While the Examiner is certainly free to reconsider the allowance of claim 3 and to reject this claim if he feels that is warranted, any action doing this CANNOT BE MADE A FINAL REJECTION. First, the Examiner was required by relevant PTO procedure to give the word "sleeve" its broadest reasonable construction when he first examined the application. Moreover, the broad construction to be given the word "sleeve" is clear from paragraph 46 of the original specification. The addition of claims 40-42 did not add new matter or in any way affect the construction the Examiner was required to give the word "sleeve" from the very beginning. It would be grossly unfair to now reject claim 3 simply because the Examiner has now focused on the fact that the word sleeve has a broad construction without giving the Applicant a chance to respond.

Moreover, it should be clear that claim 3 is allowable over the art of record even with a broad construction for the word "sleeve". There is no art of record that shows or suggests a parachute supported aircraft of the type claimed that embodies any type of sleeve, however one might reasonably define the term, that is supported for the claimed motion both upwardly and downwardly relative to the frame.

The Examiner is also reminded that the previous restriction requirement as to claims 34-38 was traversed and a decision on such traversal is pending when the Examiner acts on the Amendment filed 1/10/2005. In the event the restriction requirement as to claims 34-38 is withdrawn, these claims would be added to the group of claims that would be included in the examination of Group I.

Respectfully submitted,



May 20, 2005

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